

Introduced by Senator KuehlFebruary 20, 2003

An act to add Article 1.8 (commencing with Section 1103.20) to Chapter 2 of Title 4 of Part 4 of Division 2 of the Civil Code, relating to real property.

LEGISLATIVE COUNSEL'S DIGEST

SB 415, as introduced, Kuehl. Real property: radioactive contamination: disclosure.

Existing law requires a seller of real property, as specified, to make disclosures regarding natural hazards upon the transfer of that property, and sets forth the content and form of these disclosures in a Natural Hazard Transfer Disclosure Statement.

This bill would require a person or entity that sells, leases, subleases, otherwise transfers radioactive contaminated property, as defined, to provide the transferee with a specified written disclosure prior to the transfer that would describe the increased risk of cancer to which occupants of the property are expected to be exposed. The bill would specify that certain documents available from the Office of Solid Waste and Emergency Response of the United States Environmental Protection Agency are to be used in establishing the level of radioactive contamination to be disclosed. The bill would require that the risk be specific to the parcel being transferred, as specified.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.



The people of the State of California do enact as follows:

SECTION 1. Article 1.8 (commencing with Section 1103.20) is added to Chapter 2 of Title 4 of Part 4 of Division 2 of the Civil Code, to read:

Article 1.8. Radioactive Contaminated Property

1103.20. (a) A person or entity that sells, leases, subleases, otherwise transfers radioactive contaminated property shall provide the transferee with the written disclosure described in subdivision (b) prior to that transfer.

(b) The written disclosure required by this section shall be given in the following form, with the blanks appropriately filled:

“This property is contaminated by radioactive waste. Despite cleanup and removal efforts, the remaining contamination will expose occupants of this property to an increased risk of cancer equivalent to one additional incidence of cancer for every _____ people exposed to this level of radioactivity.

To understand what this level of risk means to you, the United States Environmental Protection Agency (U.S. E.P.A.) generally requires contaminated sites to be cleaned up to a level that will result in one additional cancer for every 1,000,000 people exposed to the level of contamination of that site, but may, under exceptional circumstances, allow the risk to be as high as one additional cancer for every 10,000 people exposed.

The level of radioactive contamination on this property [____ is] [____ is not] within the ranges allowed by the U.S. E.P.A.”

(c) (1) In establishing the level of radioactive contamination to be disclosed pursuant to subdivision (b), the person or entity shall use the documents described in this subdivision, which are available from the Office of Solid Waste and Emergency Response (OSWER) of the United States Environmental Protection Agency.

(2) The risk estimation shall utilize the most recent version of the “Preliminary Remediation Goals for Radionuclides electronic

calculator,” as described in the transmittal memorandum for this document (February, 2002; OSWER No. 9355.01-83A). Risk estimate calculations, sampling areas, and deviations from default values shall be in accordance with the “Screening Guidance of Radionuclides: User’s Guide” (October, 2000; OSWER No. 9355.4-16A, NTIS Order Number PB2000 963307), and with the “Soil Screening Guidance for Radionuclides: Technical Background Document” (October, 2000; OSWER No. 9355.4-16, NTIS Order Number PB2000 963306).

(3) The risk estimate shall be specific to the parcel being transferred, and may not be the average risk associated with the entire radioactive contaminated property.

(d) A person who is not an owner or operator, as those terms are defined in 42 U.S.C. Sec. 9601(20), and who is involved in the transfer of radioactive contaminated property subject to this section including, but not limited to, real estate agents and brokers, or mortgage brokers or bankers, are exempt from liability under this section if the notice provided pursuant to subdivision (b) is completed accurately and delivered to the transferee prior to the transfer of the property.

(e) For the purposes of this section:

(1) “Radioactive contaminated property” means real property that has radioactivity above background levels and is where activities were undertaken that were any of the following:

(A) Subject to a license issued pursuant to Chapter 8 (commencing with Section 114960) of Part 9 of Division 104 of the Health and Safety Code.

(B) Subject to a license issued by the Nuclear Regulatory Commission pursuant to the Atomic Energy Act (42 U.S.C. Sec. 2014 et seq.).

(C) By, or for, an unlicensed federal entity.

(2) “Background level” means the local level of radioactivity from nature without enhancement by human activity, coupled with the local level of fallout from nuclear weapons and nuclear testing and the local level of fallout from nuclear accidents that have occurred elsewhere, including, but not limited to, the nuclear accident at Chernobyl.

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